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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,931	03/14/2002	Oliver Bremer	944-004.002/NC 16334 US	2705

4955 7590 05/15/2007
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EXAMINER

HENNING, MATTHEW T

ART UNIT	PAPER NUMBER
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2131

MAIL DATE	DELIVERY MODE
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05/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/099,931

Applicant(s)

BREMER, OLIVER

Examiner

Matthew T. Henning

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,10-15 and 17-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,10-15 and 17-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 June 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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1 This action is in response to the communication filed on 2/14/2007.

2 **DETAILED ACTION**

3 *Continued Examination Under 37 CFR 1.114*

4 A request for continued examination under 37 CFR 1.114, including the fee set forth in
5 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is
6 eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)
7 has been timely paid, the finality of the previous Office action has been withdrawn pursuant to
8 37 CFR 1.114. Applicant's submission filed on 2/14/2007 has been entered.

9
10 *Response to Arguments*

11 Applicant's arguments filed 2/14/2007 have been fully considered but they are not
12 persuasive.

13 Regarding applicants' argument that Safadi requires assistance from the network
14 infrastructure to encrypt protected content or content encryption key, the examiner does not find
15 the argument persuasive. In response to applicant's argument that the references fail to show
16 certain features of applicant's invention, it is noted that the features upon which applicant relies
17 (i.e., encrypting...without assistance from the network infrastructure) are not recited in the
18 rejected claim(s). Although the claims are interpreted in light of the specification, limitations
19 from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26
20 USPQ2d 1057 (Fed. Cir. 1993). In this case, the claims recite that the recipient of the content
21 consumes the content without assistance from the network infrastructure, but does not require
22 encryption without assistance. As such, the examiner does not find the argument persuasive.

Claims 1, 3-8, 10-15, 17-22 and 24-34 have been examined.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Although there is support for the recipient consuming the content without “content personalization assistance” from the network infrastructure, the applicants have failed to show, and the examiner is unable to find, where in the specification there is support for consuming the content with no assistance at all from the network infrastructure. As such, the specification is objected to for failing to provide proper antecedent basis for the claimed subject matter. See the rejection of the claims under 35 USC 112 1st Paragraph below.

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Claim Objections

Claims 26 and 27 are objected to because of the following informalities: The claims recite "the initial message" which lacks antecedent basis in the claim. Appropriate correction is required. For purposes of searching prior art the examiner will assume that the claims were meant to read "an initial message".

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 3-8, 10-15, 17-21, 28-32, and 34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In this case, the claim language recites limitations directed towards particular actions, such as consuming content and encrypting content, without assistance from the network infrastructure. However, the specification fails to provide support for these claim limitations. Although there is support for the prior limitations of performing the particular actions without "content personalization assistance" from the network infrastructure, there is no support for the claim limitations as amended. As such, one of ordinary skill in the art would not be able to ascertain whether the applicants were in possession of the invention as

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1 claimed at the time of invention. Therefore, the claims are rejected for failing to meet the written
2 description requirement of 35 SUC 112 1st Paragraph.

3
4 ***Claim Rejections - 35 USC § 102***

5 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the
6 basis for the rejections under this section made in this Office action:

7 *A person shall be entitled to a patent unless –*

8 *(e) the invention was described in (1) an application for patent, published under section*
9 *122(b), by another filed in the United States before the invention by the applicant for patent or*
10 *(2) a patent granted on an application for patent by another filed in the United States before the*
11 *invention by the applicant for patent, except that an international application filed under the*
12 *treaty defined in section 351(a) shall have the effects for purposes of this subsection of an*
13 *application filed in the United States only if the international application designated the United*
14 *States and was published under Article 21(2) of such treaty in the English language.*
15

16 Claims 1-4, 6-11, 13-17, 19-21, 27-32, and 34 are rejected under 35 U.S.C. 102(e) as
17 being anticipated by Safadi et al. (US Patent Application Publication Number 2002/0147686)
18 hereinafter referred to as Safadi.

19 Regarding claims 1 and 28, Safadi disclosed a method comprising: forwarding peer-to-
20 peer content in a wireless network having a network infrastructure, where a wireless sender
21 encrypts protected content or content encryption key and a wireless recipient consumes the
22 protected content without requiring assistance from the network infrastructure (See Safadi
23 Paragraphs 0032, 0036-0037, 0042, and 0044).

24 Regarding claim 8, Safadi disclosed a wireless network comprising: at least two wireless
25 terminals and a network infrastructure for forwarding peer-to-peer content from one wireless
26 terminal to another wireless terminal; the at least two wireless terminals having a peer-to-peer

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1 forwarding/reception of DRM protected content module configured for either encrypting or
2 consuming protected content without assistance from the network infrastructure (See Safadi
3 Paragraphs 0032, 0036-0037, and 0044).

4 Regarding claim 15, Safadi disclosed a wireless terminal comprising: one or more
5 modules for operating in a wireless network having another wireless terminal and a network
6 infrastructure for forwarding peer-to-peer content from the wireless terminal to the other wireless
7 terminal, each wireless terminal having a peer-to-peer forwarding/reception of DRM protected
8 content module configured for either encrypting, consuming, or a combination thereof, protected
9 content without assistance from the network infrastructure (See Safadi Paragraphs 0032, 0036-
10 0037, 0042 and 0044).

11 Regarding claim 3, Safadi disclosed that the wireless recipient sends a device certificate
12 having a public key to the wireless sender (See Safadi Paragraphs 0036 and 0041).

13 Regarding claims 4, 11, 17, and 34, Safadi disclosed that that the wireless sender
14 personalizes the protected content or content encryption key for the wireless recipient (See
15 Safadi Paragraphs 0036-0037 and 0044).

16 Regarding claims 6, 13, and 20, Safadi disclosed that the wireless recipient verifies
17 forwarded protected content received from the wireless sender by: verifying the device certificate
18 of the wireless sender (See Safadi Paragraph 0043); and applying a private key of the wireless
19 recipient in order for the recipient to consume the protected content (See Safadi Paragraphs
20 0036-0037 and 0044).

21 Regarding claims 7, 14, and 21, Safadi disclosed that the protected content is digital
22 rights management protected content (See Safadi Paragraph 0034).

Regarding claim 27, Safadi disclosed that the initial message includes a device certificate to the wireless recipient (See Safadi Paragraph 0042).

Regarding claims 29-32, Safadi disclosed that the peer-to-peer forwarding/reception of DRM protected content protocol module of a wireless sender sends an initial message having either an international mobile equipment identity, a sender name or mobile station international Integrated subscriber digital network number to a wireless recipient (See Safadi Paragraph 0036).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 12, 18, 22, 26, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Safadi as applied to claims 4, 8, and 17 respectively above, and further in view of Mott et al. (US Patent Number 6,170,060) hereinafter referred to as Mott.

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1 Safadi disclosed that the steps for personalizing include: encrypting the content or content
2 encryption key using a public key of the wireless recipient (See Safadi Paragraphs 0036-0037);
3 and sending the protected content or content encryption key and a device certificate of the
4 wireless sender to the wireless recipient (See Safadi Paragraphs 0042 and 0044), but failed to
5 disclose signing encrypted content or content encryption key using a private key of the wireless
6 sender, or sending the protected content with a device certificate of the sender.

7 Mott teaches that a digital signature should be appended to downloaded content in order
8 to be able to verify the data (See Mott Col. 11 Paragraph 2).

9 It would have been obvious to the ordinary person skilled in the art at the time of
10 invention to employ the teachings of Mott in the content distribution system of Safadi by
11 including a signature of the content with the content. This would have been obvious because the
12 ordinary person skilled in the art would have been motivated to provide a means for the recipient
13 to verify the integrity of the data. Further, it was well known in the art at the time of invention
14 that the certificate of a signor could be included with the signed object and therefore it would
15 have been obvious to the ordinary person skilled in the art to have done so.

16 Regarding claim 22, the combination of Safadi and Mott disclosed a method comprising:
17 forwarding a protected content or content encryption key from a first terminal to a second
18 terminal, comprising the steps of: sending an initial message from the first terminal to the second
19 terminal (See Safadi Paragraph 0042) the initial message including a sender name, an
20 international mobile equipment identity, a mobile station integrated service digital network
21 number, or a combination thereof (See Safadi Paragraphs 0036 and 0042); sending a digital
22 rights management device certificate containing a public digital rights management key from the

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1 second terminal to the first terminal (See Safadi Paragraph 0041); verifying the public digital
2 rights management key by the first terminal (See Safadi Paragraph 0041); personalizing digital
3 rights management content or content encryption key by encryption using a public key of the
4 second terminal (See Safadi Paragraphs 0036-0037 and 0044); signing encrypted digital rights
5 management content or content encryption key using a private digital rights management key of
6 the first terminal (See the rejection of claim 5 above); sending encrypted and signed digital rights
7 management content or content encryption key together with a digital rights management device
8 certificate of the first terminal from the first terminal to the second terminal (See the rejection of
9 claim 5 above); verifying the digital rights management device certificate of the first terminal by
10 the second terminal (See Safadi Paragraph 0043); and applying a private digital rights
11 management key of the second terminal, if the private digital rights management key of the first
12 terminal is verified, in order for the second terminal to consume the protected content (See
13 Safadi Paragraph 0044).

14 Regarding claim 26, see Safadi Paragraph 0042.

15 Regarding claim 33, see the rejection of claims 29-32 above.

16 Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the
17 combination of Safadi and Mott as applied to claim 23 above, and further in view of Gustafsson
18 (US Patent Number 6,424,841).

19 Safadi and Mott disclosed sending encrypted and signed digital rights management
20 content to the first terminal and verifying the same in the first terminal (See the rejection of
21 claim 22 above), but failed to disclose sending confirmation or error messages. However, Safadi

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1 and Mott did disclose that the communications were with a cell phone (See Safadi Paragraph
2 0033).

3 Gustafsson teaches that in a mobile phone system, acknowledgment messages should be
4 provided to the sender of a message by the recipient (See Gustafsson Col. 2 Paragraphs 3-4).

5 It would have been obvious to the ordinary person skilled in the art at the time of
6 invention to employ the teachings of Gustafsson in the content distribution system of Safadi and
7 Mott by having the receiver either acknowledge proper receipt of the content or send an error
8 message to the sender. This would have been obvious because the ordinary person skilled in the
9 art would have been motivated to ensure proper receipt of the content.

10 *Conclusion*

11 Claims 1, 3-8, 10-15, 17-22, and 24-34 have been rejected.


12 A shortened statutory period for reply to this final action is set to expire THREE
13 MONTHS from the mailing date of this action. In the event a first reply is filed within TWO
14 MONTHS of the mailing date of this final action and the advisory action is not mailed until after
15 the end of the THREE-MONTH shortened statutory period, then the shortened statutory period
16 will expire on the date the advisory action is mailed, and any extension fee pursuant to 37
17 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,
18 however, will the statutory period for reply expire later than SIX MONTHS from the mailing
19 date of this final action.


20 Any inquiry concerning this communication or earlier communications from the
21 examiner should be directed to Matthew T. Henning whose telephone number is (571) 272-3790.
22 The examiner can normally be reached on M-F 8-4.

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1 If attempts to reach the examiner by telephone are unsuccessful, the examiner's
2 supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the
3 organization where this application or proceeding is assigned is 571-273-8300.

4 Information regarding the status of an application may be obtained from the Patent
5 Application Information Retrieval (PAIR) system. Status information for published applications
6 may be obtained from either Private PAIR or Public PAIR. Status information for unpublished
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11 information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

12
13
14 
15 Matthew Henning
16 Assistant Examiner
17 Art Unit 2131
5/7/2007


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